



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R02-OAR-2021-0263 FRL 10025-39-Region 2]

Approval of Air Quality Implementation Plans; New York; 2011 Periodic Emission Inventory SIP for the Ozone Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the New York State Department of Environmental Conservation (NYSDEC). The SIP revision consists of the following: 2011 calendar year ozone precursor emission inventory for volatile organic compounds (VOCs), oxides of nitrogen (NO_x), and carbon monoxide (CO) for the New York portion of the New York-Northern New Jersey-Long Island, Connecticut NY-NJ-CT area (New York Metropolitan Area, or NYMA) classified as serious ozone nonattainment for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS or standard), and the Jamestown (Chautauqua County) ozone nonattainment area classified as marginal for the 2008 8-hour ozone standard. In addition, the SIP revision also consists of the 2011 calendar year statewide periodic emissions inventory for volatile organic compounds, oxides of nitrogen, and carbon monoxide. Emission inventories are needed to develop and assess new control strategies that the states may use in attainment demonstration SIPs for the new National Ambient Air Quality Standards for ozone and PM_{2.5}. The inventories may also serve as part of statewide inventories for purposes of regional modeling in ozone and play an important role in modeling demonstrations for areas classified as nonattainment for ozone and carbon monoxide. This action is being taken in accordance with the Clean Air Act (CAA).

DATES: Written comments must be received on or before **[Insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R02-OAR-2021-0263, at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Ysabel Banon, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-3382, or by email at banon.ysabel@epa.gov.

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I. Background

On March 12, 2008, the EPA revised both the primary and secondary NAAQS for ozone to a level of 0.075 parts per million (ppm) (annual fourth-highest daily maximum 8-hour average concentration, averaged over three years) to provide increased protection of public health and the environment. See 73 FR 16436 (March 27, 2008). The 2008 ozone NAAQS retains the same general form and averaging time as the 0.08 ppm NAAQS set in 1997 but is set at a more protective level. Under the EPA's regulations at 40 CFR part 50, the 2008 8-hour ozone NAAQS is attained when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.075 ppm. See 40 CFR 50.15. Effective July 20, 2012, the EPA designated as nonattainment any area that was violating the 2008 8-hour ozone NAAQS based on the most recent three years (2008 through 2010) of air monitoring data. See 77 FR 30088 (May 21, 2012). The two 8-hour ozone marginal nonattainment areas located in New York State are the New York portion of the NYMA and the Jamestown nonattainment area. The remainder of New York State was designated as unclassifiable/attainment. The New York portion of the NYMA is composed of the five boroughs of New York City and the surrounding counties of Nassau, Suffolk, Westchester, Rockland, and the Shinnecock Indian Nation. See 40 CFR 81.333. The Jamestown nonattainment area is composed of Chautauqua County.

Because the NYMA and Jamestown areas were designated as ozone nonattainment areas, an ozone emissions inventory is needed for this area for air quality program planning purposes. Areas that were designated as marginal nonattainment were required to attain the 2008 8-hour ozone NAAQS no later than July 20, 2015 based on monitoring data from 2012 through 2014. On May 14, 2016, the EPA published its determination that the Jamestown area attained the 2008 ozone standard by the July 20, 2015 attainment date and that the NYMA area had failed to

attain the 2008 8-hour ozone NAAQS by the attainment deadline. See 81 FR 26697. As a result, the NYMA area was reclassified to moderate nonattainment. See 40 CFR 81.306. Moderate areas are required to attain the 2008 8-hour ozone NAAQS by no later than six years after the effective date of designations or July 20, 2018. See 40 CFR 51.903. On August 23, 2019, the EPA published its determination that the NYMA area had failed to attain the 2008 8-hour ozone NAAQS by the July 20, 2018 deadline, and so the EPA reclassified the NYMA area to serious nonattainment. 84 FR 44238.

A. Statutory and Regulatory Requirements for a Periodic Emissions Inventory

Section 182(a)(3) and 172(c)(3) of the Clean Air Act requires the periodic submission of emissions inventories for the SIP planning process to address the pollutants for the ozone and carbon monoxide NAAQS. Identifying the calendar year gives certainty to states that require submission of the ozone and CO emission inventories periodically. These requirements allow the EPA to periodically reassess its policies and air quality standards and revise them as necessary based on the states' progress in reducing emissions. Most importantly, the ozone and CO inventories will be used to develop and assess new control strategies that the states may use in attainment demonstration SIPs for the ozone and CO NAAQS. The inventory may also serve as part of statewide inventories for purposes of regional modeling in transport areas. The inventory plays an important role in modeling demonstrations for areas classified as nonattainment and outside transport regions.

II. Description of State's Submittals

CAA Section 182, subpart 2 outlines SIP requirements applicable to ozone nonattainment areas in each classification category. On November 13, 2017, NYSDEC submitted SIP revisions for the 2011 calendar year ozone precursor emission inventory for volatile organic compounds, oxides of nitrogen, and carbon monoxide for the NYMA classified as moderate ozone

nonattainment for the 2008 8-hour ozone standard, and Jamestown (Chautauqua County) ozone nonattainment area classified as marginal for the 2008 8-hour ozone standard. In addition, the SIP revision consists of the 2011 calendar year statewide periodic emissions inventory for volatile organic compounds, oxides of nitrogen, and carbon monoxide.

III. Evaluation of State's Submittals and Technical Information

A. 2011 Base Year Emission Inventory

CAA section 172(c)(3) requires that each SIP include a “comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutant or pollutants in [the] area....” By requiring an accounting of actual emissions from all sources of the relevant pollutants in the area, this section provides for the “base year” inventory to include all emissions that contribute to the formation of a particular NAAQS pollutant. Additionally, for the 2008 ozone NAAQS, the EPA’s March 6, 2015 ozone rule recommends 2011 as a baseline year from which emission reductions used to meet reasonable further progress requirements are creditable. See 80 FR 12264.

On November 13, 2017, NYSDEC submitted to the EPA an emissions inventory of ozone precursors for 2011 as a SIP revision request. The inventory was submitted to meet the CAA section 182(a)(3)(A) obligation to develop a base year inventory. The State conducted a public comment process on the inventory which concluded on August 21, 2017 with a public hearing. The State did not receive public comments on the 2011 emissions inventories during the public comment period or during the hearing. The inventory includes emission estimates in tons per year and tons per ozone season day and represent emissions estimates from stationary and mobile source categories during a typical summer day when ozone formation is highest. The ozone emissions inventory catalogs NO_x and VOC emissions because these pollutants are precursors to ozone formation. NYSDEC’s 2011 emissions inventory contains emission estimates at the

county level and also contains emission estimates summed to the geographic areas that correspond to the State's two nonattainment areas.

B. Evaluation of State's Submittals

Based on the EPA's review, the 2011 base year emissions inventory for the NYMA, the Jamestown area, and the entire State include essential data elements, source categories, sample calculations, or report documentation to allow the EPA to adequately determine if the inventory is accurate and complete. Consequently, New York's 2011 base year emissions inventory is consistent with the ozone base year emission inventory reporting requirements based on EPA guidance. New York's 2011 base year inventory is consistent with the ozone base year emission inventory reporting requirements for the following reasons:

1. Evidence that the inventory was quality assured by the State and its implementation documented;
2. The point source inventory must be complete;
3. Point source emissions must have been prepared or calculated according to current EPA guidance;
4. The area source inventory must be complete;
5. The area source emissions must have been prepared or calculated according to current EPA guidance;
6. Non-road mobile emissions must have been prepared according to current EPA guidance for all of the source categories;
7. The method (e.g., Highway Performance Monitoring System or a network transportation planning model) used to develop the vehicle miles travelled (VMT) estimates must follow EPA guidance. (The VMT development methods were described and documented in the inventory report.)
8. On-road mobile emissions were prepared according to the guidance.

Annual and ozone season day point, area, non-road, on-road, and biogenic emissions are identified in the inventory. Based on the EPA's review, New York satisfies all of the EPA's requirements for purposes of providing a comprehensive accurate, and current inventory of actual emissions for the ozone nonattainment. A summary of the EPA's review is given below:

1. The Quality Assurance (QA) plan was implemented for all portions of the inventory.

The QA plan included a QA/Quality control (QC) program for assessing data completeness and standard range checking. Critical data elements relative to the inventory sources were assessed for completeness. QA checks were performed relative to data collection and analysis, and double counting of emissions from point, area, and mobile sources. QA/QC checks were conducted to ensure accuracy of units, unit conversions, transposition of figures, and calculations. The inventory is well documented. New York provided documentation detailing the methods used to develop emissions estimates for each category. In addition, New York identified the sources of data it used to develop the inventory;

2. The point source emissions are complete in accordance with EPA guidance;

3. The point source emissions were prepared and calculated in accordance with EPA guidance;

4. The area source emissions are complete in accordance with EPA guidance;

5. Area source emissions were prepared and calculated in accordance with EPA guidance;

6. Emission estimates for the non-road mobile source categories are correctly based on the latest non-road mobile model or other appropriate guidance and prepared in accordance with EPA guidance;

7. The method used to develop VMT estimates is in accordance with EPA guidance and was adequately described and documented in the inventory report; and,

8. The latest Motor Vehicle Emission Simulator (MOVES2014a) model was used in accordance with EPA guidance.

New York's 2011 ozone emission inventory has been developed in accordance with EPA guidance. Therefore, the EPA is proposing to approve the emission inventory. Detailed emission inventory development procedures can be found in the following document: *Emission Inventory Guidance for Implementation of Ozone and Particulate Matter NAAQS and Regional Haze Regulation*, dated July 2017; *Using MOVES to Prepare Emission Inventories in State Implementation Plans and Transportation Conformity: Technical Guidance for MOVES2014, 2014a*, November April 2015.

Table 1–below shows the statewide summary of the 2011 Annual emissions. Tables 2-4 below show the 2011 CO, NO_x, and VOC annual emission by category for the ozone nonattainment areas. Table 5-below shows the summary emission by category, in tons per ozone season day.

Table 1. Statewide Summary of 2011 Annual Emissions (Tons)

2011 New York State Annual						
	Point	Nonpoint	Nonroad	On-Road	Biogenic	Total for all sectors
CO	52,277	217,200	765,931	890,013	73,592	1,999,013
NO _x	51,048	65,602	104,725	173,269	8,516	403,160
VOC	8,638	221,174	105,266	86,980	391,579	813,637

Table 2. NYMA and Jamestown 2011 Annual CO Emissions

County Name	CO tons per year					
	Point	Nonpoint	Nonroad	On-road	Biogenic	Total for all sectors
Bronx	481.38	1,804.33	12,589.03	19,739.31	69.11	34,683.16

Kings	402.73	4,075.73	37,417.24	32,242.24	86.26	74,224.2
Nassau	1,355.92	3,773.09	56,538.97	72,093.37	455.06	134,216.4
New York	1,382.31	3,302.12	74,065.45	29,523.84	31.40	108,305.1
Queens	1,432.93	3,372.13	46,722.59	49,875.48	118.83	101,522.0
Richmond	771.13	2,260.14	11,978.46	14,483.11	98.51	29,591.35
Rockland	106.65	1,609.30	12,339.81	16,194.00	267.29	30,517.05
Suffolk	2,245.55	8,580.85	94,937.08	102,473.20	1,982.01	210,218.7
Westchester	472.12	4,888.18	42,788.68	48,675.43	631.37	97,455.78
TOTAL	8,650.71	33,665.87	389,377.30	385,299.98	3,739.81	820,733.7
Chautauqua	662.590	3,961.99	8,460.39	11,905.87	1471.83	26,462.7

Table 3. NYMA and Jamestown 2011 Annual NO_x Emissions

County Name	NO _x tons per year					
	Point	Nonpoint	Nonroad	On-road	Biogenic	Total for all sectors
Bronx	563.91	2,571.79	2,387.14	4,822.04	7.68	10,352.56
Kings	1,063.94	5,484.64	5,348.52	7,563.46	10.54	19,471.10
Nassau	2,518.47	4,153.45	3,751.43	12,522.14	35.70	22,981.19
New York	3,147.56	10,786.66	13,137.78	7,066.32	5.03	34,143.35
Queens	2,370.14	4,734.23	10,425.27	10,801.61	15.53	28,346.78
Richmond	895.39	1,082.34	2,540.24	2,727.46	8.54	7,253.97
Rockland	360.39	903.75	1,207.22	2,642.45	19.22	5,133.03
Suffolk	3,298.58	4,309.39	14,171.66	16,959.84	150.76	38,890.23
Westchester	1,344.18	3,224.12	2,999.25	7,736.45	46.56	15,350.56
TOTAL	15,562.58	37,250.25	55,968.49	72,841.76	299.56	181,922.77
Chautauqua	2141.81	815.65	2,289.15	2,776.52	245.69	8,268.82

Table 4. NYMA and Jamestown 2011 Annual VOC Emissions

County Name	VOC tons per year					
	Point	Nonpoint	Nonroad	On-road	Biogenic	Total for all sectors
Bronx	39.77	10,525.42	1,142.39	2,035.09	498.54	1,4241.2
Kings	303.59	19,127.05	2,957.06	3,382.77	389.63	26,160.1
Nassau	263.49	12,096.49	4,596.46	7,215.96	3,247.33	27,419.7
New York	189.45	13,274.27	4,754.84	2,894.63	170.79	21,284
Queens	239.63	18,293.89	3,841.17	5,260.83	682.95	28,318.5

Richmond	185.57	3,947.04	1,125.80	1,520.59	651.25	7,430.25
Rockland	74.03	2,834.50	1,341.89	1,450.91	2,767.01	8,468.34
Suffolk	457.17	15,980.50	10,969.88	9,750.32	13,821.42	50,979.3
Westchester	79.94	9,264.73	3,935.55	4,468.14	4,956.84	22,705.2
TOTAL	1,832.65	105,343.90	34,665.05	37,979.23	2,7185.8	207,007
Chautauqua	167.75	6,726.66	1,515.54	1,152.29	245.69	9,807.93

Table 5. NYMA and Jamestown Summary of 2011 OSD Emissions (Tons per Day)

2011 New York Metropolitan Area (NYMA) Ozone Season Day							Jamestown Area Ozone Season Day					
	Point	Nonpoint	Nonroad	On-Road	Biogenic	Total for all sectors*	Point	Nonpoint	Nonroad	On-Road	Biogenic	Total for all sectors*
CO	90.57	46.18	1,088.43	1,018.81	22.11	2,264.10	4.46	5.49	23.64	28.72	9.17	71.48
NO _x	344.88	52.49	155.07	205.86	1.35	759.65	10.31	1.60	23.64	7.83	1.13	44.51
VOC	11.26	301.11	96.88	104.46	191.15	704.86	1.06	18.36	4.23	3.07	45.75	72.47

IV. Proposed Action

The New York emission inventory SIP revision will ensure that the requirements for emission inventory measures and reporting are adequately met. To comply with the emission inventory requirements, on November 13, 2017, NYSDEC submitted the complete inventory containing point, area, on-road, non-road mobile, and biogenic source data, and accompanying documentation. The EPA is proposing to approve New York's 2011 emission inventory SIP revision submittal as meeting the essential reporting requirements for emission inventories. The EPA has also determined that the SIP revision meets the requirements for emission inventories in accordance with EPA guidance. Therefore, the EPA is proposing to approve a revision to the New York SIP which pertains to the following: 2011 calendar year ozone season daily and annual ozone precursor emission inventories for CO, NO_x, and VOC for the NYMA portion of New York-New Jersey-Long Island NY-NJ-CT serious nonattainment area and for the Jamestown marginal nonattainment area. In addition, the EPA is proposing to approve the 2011 calendar year ozone emissions inventory that was developed statewide for New York. The pollutants included in the inventory are annual emissions for CO, NO_x, and VOC. Interested

parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Region 2 Office by the method discussed in the **ADDRESSES** section of this action.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735 (October 4, 1993)) and 13563 (76 FR 3821 (January 21, 2011));
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255 (August 10, 1999));
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885 (April 23, 1997));
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355 (May 22, 2001));

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629 (February 16, 1994)).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249 (November 9, 2000)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

June 24, 2021.

Dated:

Walter Mugdan,
Acting Regional Administrator,
EPA Region 2.

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